

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 10, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 10, 2003, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair; James Barfield; Ray Warren; John W. McKay Jr.; Bill Johnson (in @ 1:30); Morris K. Dunlap; Ronald Marnell; Bob Hernandez; Elizabeth Bishop (in @ 1:38); M.S. Mitchell; Ed Sunquist; Frank Garofalo. David Wells was absent. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; and Rose Simmering, Recording Secretary.

1. Approval of MAPC meeting minutes of June 19, 2003.

MOTION: That the minutes for June 19, 2003 be approved.

MARNELL moved, **WARREN** seconded the motion, and it carried (7-0-4) **GAROFALO, SUNQUIST, MITCHELL** and **HERNANDEZ** abstained.

2. Consideration of Subdivision Committee Recommendations

Items 2-1 to 2-7 may be taken in one motion unless there are questions or comments.

2-1. SUB2003-62 – One-Step Final Plat – THE ESTATES AT HOLLENBECK FARMS ADDITION, located on the east side of 143rd Street East and south of 13th Street North.

- A. **City Engineering** needs to comment on the need for guarantees or easements. **The private sewer service line needs to be upgraded to public standards. A petition is needed. An off-site easement is also requested. The sewer easement for the 4" sewer service line may be deleted.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage concept.
- D. The plat proposes two joint access openings along 143rd St. East including a joint access opening with the abutting property to the south. The final plat shall reference the dedication of access controls in the plat's text. **The access controls are approved.**
- E. **County Surveying** has requested that the sanitary sewer easement needs to be located.
- F. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. The plat's text shall note the dedication of the street to and for the use of the public.
- H. Regarding Reserve A, being platted for private drive purposes, the plat's text on the final plat tracing shall reference, by lot and block numbers, which lots are to be provided access by the reserve.
- I. A covenant shall be submitted regarding Reserve A platted for private drive purposes, which sets forth ownership and maintenance of the private drive, and future reversionary rights of the reserve to the lots benefiting from the reserve.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) The surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the

driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed)

- N. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MILLER Item 2-1 needs pulled the applicant wants a deferral back to Subdivision Committee.

MOTION: To defer indefinitely.

HENTZEN moved, **COULTER** seconded the motion, and it carried (10-0-1) **HERNANDEZ** abstained.

2-2. SUB2003-05 – One-Step Final Plat – UNIVERSITY AND RIDGE ADDITION, located on the east side of Ridge Road, north of Kellogg.

- A. Municipal services are available to serve the site.
- B. A utility easement needs to be platted for the existing sanitary sewer line and electric line.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. **The drainage plan needs revised. A private stormwater extension will be needed at time of site development.**
- E. The plat proposes one access opening along both Ridge Road and University along with a 15-ft contingent opening along the north property line. A cross-lot access easement was approved for the property to the north (King's Maple Third Addition) through a 30-ft opening for the benefit of this property. Distances should be shown for all segments of access control. **One opening along University is approved although no left turns out are permitted. A 30-ft temporary opening along Ridge at the north property line is approved which shall be closed when an adjoining opening to the north is constructed. A cross-lot access agreement with the property to the north shall be provided that grants access rights to the owner of this plat within the west 50 feet of the property to the north.**
- F. **Traffic Engineering** has requested the dedication of 10 feet of additional right-of-way along Ridge Road to conform with the 60-ft half-street right-of-way required by the Access Management Regulations.
- G. **Traffic Engineering** has requested an additional 5 feet of right-of-way along University Avenue. The Subdivision Regulations require a 70-ft half-street right-of-way for a commercial street. **A 5-ft contingent dedication has been platted for a portion of this right-of-way which has been approved.**

- H. **Traffic Engineering** has requested a guarantee to improve University Avenue to commercial street standards.
- I. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- J. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlays (referenced as P-O # 113 and P-O # 117) and their special conditions for development on this property.
- K. **County Surveying** has requested a precise location for the benchmark.
- L. The legal description needs revised to delete the language "being replatted as...".
- M. The applicant is reminded that in addition to the wall easement platted parallel to the east property line, the Protective Overlay also required a wall constructed parallel to the south property line.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

NEIL STRAHL Planning staff presented staff report.

University and Ridge Addition. The major issue discussed at the Subdivision Committee meeting was access. The Subdivision Committee approved one opening along University along the west 150 feet of that site however no left turns out would be permitted. All the traffic would be diverted towards Ridge Road. Also a 30 foot temporary opening along the north portion of the plat was permitted along Ridge which will need to be closed when the adjoining opening to the north is constructed. Also a cross lot access agreement with the property to the north will need to be provided. There was also right-of-way requirements for tems F and Items G in the staff report - 10 feet along Ridge Road was required to be dedicated with the plat and also right-of-way along University Avenue to the South. University Avenue would have to be upgraded to commercial street standards per Item H in the staff report.

DUNLAP In the notes here it says subject to revision of the Protective Overlay #113 and #117 what is unique about those?

STRAHL I don't have the specifics but they did address: signage, lighting, noise, building heights, screening, and permitted uses.

GAROFALO When we took the zoning case up there was discussion about the openings onto University, do you recall what was decided then?

MILLER I remember the case in general, I don't remember specifics.

STRAHL There is complete access control on Summitlawn - no openings along there; one opening on the west half of University and one opening on Ridge right here that is a temporary opening.

GAROFALO And that will be closed?

STRAHL Right, the plat to the north was approved with a 30 foot opening along the south property line and when that opening is constructed cross lot access would be provided to this property to the south.

BISHOP Is this the one that we approved for a drive-through restaurant application?

STRAHL I think so.

BISHOP It doesn't look like it on the drawing.

STRAHL There is a new map that was handed out today that shows the access controls as approved at our last Subdivision Committee meeting.

WILFRED STUMP, 400 S. Scouler I live a block from what is being proposed. The biggest concern we have is what is going to happen to traffic in there. Ridge Road may just as well be closed from 3 p.m. to 6 p.m. because traffic is backed up so bad you can't even make a left hand turn off of University getting back onto Ridge. How are they going to handle the traffic problem?

HENTZEN Were you at the Subdivision Committee meeting?

STUMP I have not been notified of one.

BISHOP I know we approved some offsite signs for this area but I thought it was further north.

KNEBEL As far as the zoning and signage this particular property was approved with a protective overlay that did include a drive thru restaurant. The Planning Commission also removed a staff recommendation for a prohibition for offsite signage and the City Council reinstated that so there is a prohibition for offsite signs on the property.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

2-3. SUB2003-67 – One-Step Final Plat – EMERSON ELIMENTARY ADDITION, located east of Meridian and on the north side of 15th Street North.

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. The City Council certification needs to be revised to reference Carlos Mayans, Mayor.
- E. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- F. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- G. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- H. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- I. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- J. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner

should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- K. Perimeter closure computations shall be submitted with the final plat tracing.
- L. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- M. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- N. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

2-4. SUB2003-64 – One-Step Final Plat – BAREFOOT BAY ESTATES ADDITION, located east of Ridge Road, on the south side of 29th Street North.

- A. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. Fees in lieu of assessment regarding water connections are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes three joint access openings along 29th St. North. **The center opening between Lots 3 and 4 shall be rights-in/out. Full turning movements are permitted for the other joint openings.**
- E. **Traffic Engineering** needs to comment on the need for any improvements to 29th Street. **A left turn lane along 29th North is needed to serve Lots 1 and 2.**
- F. **Traffic Engineering** has requested the dedication of 10-ft additional right-of-way along 29th St. North to conform with the 60-ft half-street right-of-way required by the Access Management Regulations.
- G. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveways within the easements should also be addressed by the text of the instrument.
- H. The language in the plat's text should be revised to replace homeowner's association with lot owner's association.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- L. The signature line for the City Clerk needs to be revised to reference "Pat Graves".
- M. The Applicant is advised that if platted, the building setback may be reduced to 20 feet.
- N. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 1, Block A. **The waiver has been approved.**
- O. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- P. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County

Engineer, and unobstructed to allow for the conveyance of stormwater.

- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

2-5. SUB2003-66 – One-Step Final Plat – RIDGE PORT FIFTH ADDITION, located north of 29th Street North, on the east side of Ridge Road.

- A. Petitions have previously been submitted for paving, drainage, sewer and water improvements for the Ridge Port Addition. **The applicant shall contact Debt Management regarding the need for a respread agreement for special assessments due to the lot reconfiguration.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves which are not being replatted by this Addition, a restrictive covenant shall be submitted which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- E. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per

the direction and approval of the Chief of the Fire Department.)

- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

2-6. DED2003-14 – Dedication of a Utility Easement, located west of Meridian, north of Central.

OWNER/APPLICANT: Michael J. Johnson, Sr., 801 N. Custer, Wichita, KS 67203

AGENT: N/A

LEGAL DESCRIPTION: The west 20 feet of the east 160 feet of Lot 10, Kauffman Gardens, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Lot Split (Case No. SUB 2003-63) and is being dedicated for construction and maintenance of a utility easement.

STAFF RECOMMENDATION: Accept the Dedication.

BARFIELD I have been contacted by the applicant on this case.

NEIL STRAHL, Planning staff presented staff report. I was not aware we needed to pull this. I thought this would be a consent item.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **JOHNSON** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

2-7. SUB2003-65 – Traffic Engineering Appeal of Preliminary Plat – RIVENDALE ADDITION, located on the north side of 55th Street South and on the west side of Hydraulic.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage concept. If any drainage will be directed onto the Turnpike, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- D. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **Left turn lanes are needed along Hydraulic and for the major entrance on 55th St. South.**

- E. The plat proposes complete access control along the plat's frontage to perimeter streets. The final plat shall reference the dedication of access controls in the plat's text. Complete access control shall be platted along Turnpike. **Traffic Engineering has requested that the Rivendale street opening along Hydraulic be relocated southward in alignment with Mona. The Subdivision Committee approved the proposed location of the Rivendale street opening as it is currently platted.**
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- G. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- H. The use of the Reserves A and B should be revised to be accurately referenced in the plat's text.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- M. The lots located along the north side of Rivendale should be included in a new block.
- N. **GIS** needs to comment on the plat's street names. **Revised street names are needed.**
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**

Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

NEIL STRAHL, Planning staff presented staff report. Since the Subdivision Meeting, the applicant has agreed to revise the plat in accordance with Traffic Engineering request. Traffic had recommended that the entrance to the Subdivision located right there would be relocated in alignment with Mona shown in light green and the applicant has agreed to make that adjustment and to relocate the street where that purple area is showing. We need action today to have the Planning Commission approve the preliminary plat in accordance with Traffic Engineering request.

DUNLAP Are we going to change the name of the street is it going to be the same name on both sides? We have been through this argument several times and that does not seem to be addressed in the staff report.

STRAHL We will address that issue at Subdivision Committee with the Address Committee.

WARREN I want to hear from the applicant.

BAUGHMAN COMPANY, 315 ELLIS, WICHITA KS 67211, PHIL MEYER applicant, We showed up at Subdivision adamantly opposed to lining those street up and we did not want to line those streets up. We were told that staff was going to appeal it because Subdivision approved it the way we wanted it. We have done some more sketches that the applicant is willing to accept and we did not want to fight with staff and he lost one lot and we lined the streets up. At Subdivision we were working with GIS on the street name and we decided to wait until the streets are lined up.

WARREN Are you going to take Mona in at the revised plat? To line it up?

MEYER Yes, there is some dead space we didn't want but will agree with it.

GAROFALO This has to go back to Subdivision?

STRAHL Yes.

MOTION: To approve, subject to staff comments and citing the findings in their report including the alignment of those streets.

WARREN moved, **COULTER** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

Items 3-1 to 3-7 may be taken in one motion, unless there are questions or comments.

3-1. VAC2003-28 – Request to Vacate a Portion of the Bayneville Plat.

OWNER/APPLICANT: Robert B Tofoya
Jody R Tofoya
Robert R & Gloria J Tofoya

LEGAL DESCRIPTION: Lots 4, 5, 6, 7, 8 & 9, Block 12, Lots 11, 12, & 13, Block 7 and Lots 8, 9, 10, Block 6, all in the Bayneville Addition

LOCATION: Generally located between 71st Street South & 79th Street South, southwest of the Tyler Road (87th Street West) RR ROW intersection, in Sedgwick County.

REASON FOR REQUEST: Simplify tax records

CURRENT ZONING: Subject property and properties all around are zoned "RR" Rural Residential.

The applicants are requesting consideration for the vacation of a portion (as described in the legal description) of the Bayneville town plat. Documentation filed with the Country, shows that approximately 2/3rds of the Bayneville plat was vacated 03-20-1915. The reason given, at that time, was that the land was being used for agriculture, which did not reflect the plat's intention of this being a town. The applicants have noted that the use and condition of the land at this site has changed little since that time and have stated that the vacation will simplify their tax records, which currently has separate documentation for their unplatted tracts (vacated 1915) and their platted property. The property proposed for vacation abuts the applicants' tracts, where they currently live. The Bayneville Addition was recorded with the Sedgwick County in 1884. The site is located in an unincorporated part of Sedgwick County and outside the 3-mile ring. There is no water or sewer at the sites, nor does a Rural Water District serve the sites. The applicants have been advised future development on the vacated sites could require platting.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works and other utility representatives, Planning Staff recommends approval to vacate that portion of the Bayneville plat as described in the legal description with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time June 19, 2003 which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above-described portions of the plat and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the plat described in the petition should be approved subject to the following conditions:
- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (2) All improvements shall be according to County Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to County Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **GAROFALO** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

3-2. VAC2003-29 – Request to Vacate a Portion of an Easement.

OWNER/APPLICANT: Wildcat Construction Co c/o John Sherwood

LEGAL DESCRIPTION: That east 2-feet of the platted 23 foot wide easement, as recorded on Lot 1, Sherwood Industrial Pak III, running for a distance of 511.3 feet north beginning at the southwest corner of Lot 1, Sherwood Industrial Pak III, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between Harry Street and Esthner Avenue, west of Sheridan, and approximately 160-feet east of Sabine – Esthner Avenue intersection, 4420 W Esthner

REASON FOR REQUEST: Built over the easement.

CURRENT ZONING: Subject property and all adjoining properties are zoned "LI" Limited Industrial.

The applicant is requesting consideration for the vacation of the east 2 feet (x) 511.3 feet of the platted 23-foot easement as recorded on Lot 1, Sherwood Industrial Park III. The applicant requests the vacation to remove a new building out of the easement. Sherwood Industrial Park III was recorded with the Register of Deeds 09-15-1987.

There is sewer in the easement proposed for vacation. The applicant owns the abutting western properties, Lots 3, 4, & 5, Block 1, Wichita Builders Addition, which run the length of the proposed vacated easement.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate that portion of platted easement as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time June 19, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted easement described in the petition should be approved subject to the following conditions:
- (1) To maintain 23-foot width of the easement, dedicate 2 feet to the west side of the easement.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

- (3) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) To maintain 23-foot width of the easement, dedicate 2 feet to the west side of the easement.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **GAROFALO** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

3-3. VAC2003-30 – Request to Vacate a Portion of a Reserve.

OWNER/APPLICANT: Sawmill Creek LLC

AGENT: Ruggles & Bohm, c/o Chris Bohm

LEGAL DESCRIPTION: That part of Reserve "C", Sawmill Creek Addition, Wichita, Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 38, Block 7, in said Sawmill Creek Addition; thence east along the north line of said Lot 38 extended, 30.00 feet to the west right of way line of Bridgewood Street as platted in said Sawmill Creek Addition; thence south along said right of way line, 52.00 feet to the point of curvature of a curve to the right, said curve having a radius of 125.08 feet; thence southwesterly along said curve an arc length of 66.49 feet to the southeast corner of said Lot 38, 108.39 feet to the place of beginning.

LOCATION: Generally located northeast of the 45th Street North – Rock Road intersection, 4721 N Spyglass.

REASON FOR REQUEST: To allow more building square footage.

CURRENT ZONING: Subject property and all adjoining properties are zoned "SF-5" Single Family Residential.

The applicant is requesting consideration for the vacation of the uses of a 0.06-acre portion of platted Reserve C, which abuts the east side of Lot 38, Block 7, Sawmill Creek Addition. The uses that Reserve C has been set aside for include irrigation, walls, walks, lighting, drainage and drainage structures, and utilities confined to easements. The Reserve is owned and maintained by the Home Owners Association for the Addition. The applicant requests the vacation to allow for more building square footage; to build a garage. The Sawmill Creek Addition was recorded with the Register of Deeds 01-25-01.

There are no sewer, water, or other utilities in this portion of the Reserve. The applicant has provided a letter from the President of the Home Owners Association supporting the vacation request.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the uses of that portion of Reserve C as described in the legal description with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time June 19, 2003 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described uses of the portion of the platted reserve and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the uses of the portion of the platted reserve described in the petition should be approved subject to the following conditions:

- (1) Provide Staff with a covenant to be recorded with the Register of Deeds that will retain, hold and bound that portion of Reserve C, as described in the legal description to Lot 38, Block 7, Sawmill Creek Addition, Wichita, Sedgwick, Kansas.
- (2) Vacate those uses as listed in Reserve C as confined to that portion of Reserve C as described in the legal description, per the recommendation of Storm Water.

- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with a covenant to be recorded with the Register of Deeds that will retain, hold and bound that portion of Reserve C, as described in the legal description to Lot 38, Block 7, Sawmill Creek Addition, Wichita, Sedgwick.
- (2) Vacate those uses as listed in Reserve C as confined to that portion of Reserve C as described in the legal description, per the recommendation of Storm Water.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **GAROFALO** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

3-4. VAC2003-32 - Request to Vacate an Alley.

OWNER/APPLICANT: Waterview Realty, LLC, c/o Jeremy Smith
TDFW, LLC, c/o Steve Barrett
Nenad & Rose M Dakovic
City of Wichita

AGENT: Baughman Company, P.A., c/o Phil Meyers

LEGAL DESCRIPTION: Vacate all of the 20-foot wide alley running east to west, beginning at the east ROW line of New York Avenue and abutting, on its south side, Lots 7, 8, 9, & 10, Tiffany's Subdivision of Lot 29 in Mathewson's Addition and Lots 1 & 2, McKims Subdivision and abutting, on its north side, Lot 6, Tiffany's Subdivision of Lot 29 in Mathewson's Addition, the south 20-feet of the platted alley running south to north and Lot 31, Supplemental Plat of Mathewson's Addition.

LOCATION: Northeast of the Douglas Avenue – New York avenue intersection

REASON FOR REQUEST: Redevelopment and expansion on the site

CURRENT ZONING: ROW is surrounded by "LI" Limited Industrial zoning

The applicants are requesting vacation of the (east to west) 20-foot wide alley for redevelopment and expansion of Big Dog Motorcycles. There are three owners abutting the alley, the City of Wichita on the north and TDFW and Nenad & Rose Dakovic on the south. Reversion of the alley to private property would have ½ the width of the alley for the entire length going to the north side and ½ the width of the alley for the entire length going to the south side.

The eastern 2/3rds of this alley was vacated 05-28-1962. The first platting of the site in 1883 was the Mathewson Addition, with the subsequent Tiffany's and McKim's subdivisions reconfiguring the original Mathewson Addition. Big Dog Motorcycles is replatting (SUB2003-60) their whole site from Douglas on the south, to 1st Street on the north, to New York on the west and Pennsylvania on the east. The southwestern corner of this block is not owned by Big Dog/ the City, but is under separate ownership; TDFW and Nenad & Rose Dakovic, who have chosen not be part of SUB03-60. Thus the alley cannot be vacated by the replat, but must be a separate vacation, as requested by the 3 owners/applicants abutting it.

There is sewer and manholes in the alley.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the alley as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time June 19, 2003 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the alley and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the alley described in the petition should be approved subject to the following conditions:

(1) Utility Companies have equipment in the alley; they require retention of the alley as an easement. Any relocation or reconstruction of these utilities made necessary by this vacation shall be the responsibility of the applicant.

(2) Any relocation or reconstruction of Public Works utilities made necessary by this vacation shall be the responsibility of the applicant, per the approval of the Public Works Engineer. Retain the easement as a temporary easement until utilities are relocated or maintain the alley as an easement if Public Works' utilities remain.

(3) If recommended the applicant shall provide guarantee for relocation of utilities, per the approval of the Public Works Engineer.

(4) All improvements will be to City Standards.

(5) The applicant shall guarantee the closure of the alley return, or modify the alley to driveway standards

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) Utility Companies have equipment in the alley; they require retention of the alley as an easement. Any relocation or reconstruction of these utilities made necessary by this vacation shall be the responsibility of the applicant.

(2) Any relocation or reconstruction of Public Works utilities made necessary by this vacation shall be the responsibility of the applicant, per the approval of the Public Works Engineer. Retain the easement as a temporary easement until utilities are relocated or retain the alley as an easement if Public Works' utilities remain.

(3) If recommended the applicant shall provide guarantee for relocation of utilities, per the approval of the Public Works Engineer.

(4) All improvements will be to City Standards.

(5) The applicant shall guarantee the closure of the alley return, or modify the alley to driveway standards

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **GAROFALO** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

3-5. VAC2003-33 – Request to Vacate a Portion of West Greenfield.

APPLICANT: Grace Chapel c/o Rev. Earl G Jones
Bennie C & Nadine M Burton
Anna May Timmis
Kenneth Allen & Cheryl Allen

LEGAL DESCRIPTION: All of the 70-foot wide Greenfield Street ROW, plus the 20-foot median strip, abutting Lots 42-60 (even), Block 33, Orienta Park 2nd Addition on its north side and abutting Lots 41-59 (odd), Block 40, Orienta Park 2nd Addition on its south side, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of the Meridian – 27th Street South intersection, one block northeast of the 27th Street South – Richmond Avenue intersection.

REASON FOR REQUEST: ROW not developed, reversion to private property.

CURRENT ZONING: Right-of-way has "SF-5" Single Family Residential zoning on its north, south and west sides. Property on the east side is zoned "LC" Limited Commercial

The applicants are requesting vacation of the (east to west) 90-foot wide (x) 200-foot long portion of Greenfield Parkway. The street is not developed and dead ends into the "LC" property on its east side. This will be the last remaining portion of Greenfield that has not been vacated, as dedicated on the Orienta Park 2nd Addition.

There are four (4) owners abutting Greenfield and all of them have applied for the vacation. Reversion of the ROW to private property would have ½ the width (45-feet) of the street ROW for the entire length going to the property owner's abutting its north side and ½ the width (45-feet) of the street ROW for the entire length going to the property owners' abutting its south side. There is sewer in the south side of the Greenfield ROW. The Orienta Park 2nd Addition was recorded with the Register of Deeds in 1909.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the Greenfield Parkway ROW as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time June 19, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the street ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the street ROW described in the petition should be approved
- (1) There are utilities in Greenfield Parkway: retain the south 20 feet of Greenfield Parkway, abutting Lots 41-59 (odd), Block 40, Orienta Park 2nd Addition as a utility easement.
 - (2) Dedicate 10 feet to the 27th Street South ROW, that abuts Lots 41-59 (odd), Block 40, Orienta Park 2nd Addition.
 - (3) Provide a covenant to be recorded with the Register of Deeds that will retain, hold and bound Lots 42-60 (even), Block 33, Orienta Park 2nd Addition, Wichita, Sedgwick, Kansas.
 - (4) Reversion rights go to both the north and south abutting property owners.
 - (5) There is storm water drainage in the ROW, retain a portion of Greenfield as a storm water easement, per the recommendation of Storm Water.
 - (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (7) All improvements will be to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) There are utilities in Greenfield Parkway: retain the south 20 feet of Greenfield Parkway, abutting Lots 41-59 (odd), Block 40, Orienta Park 2nd Addition as a utility easement.
- (2) Dedicate 10 feet to the 27th Street South ROW, that abuts Lots 41-59 (odd), Block 40, Orienta Park 2nd Addition.
- (3) Provide a covenant to be recorded with the Register of Deeds that will retain, hold and bound 42-60 (even), Block 33, Orienta Park 2nd Addition, Wichita, Sedgwick, Kansas.
- (4) Reversion rights go to both the north and south abutting property owners.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (6) There is storm water drainage in the ROW, retain a portion of Greenfield as a storm water easement, per the recommendation of Storm Water.
- (7) All improvements will be to City Standards.

BILL LONGNECKER, Planning staff presented staff report.

GRACE CHAPEL OF CHRIST, INC., 2620 W. 27TH Street South Wichita, KS 67247, SHARON JONES I am the wife of the pastor of the church. I did agree with the conditions at Subdivision because I did not understand what was going on. I have never attended a meeting of this kind before. We started this project back in March we would like to thank Mr. Allen because he gave us all the information. The reason we are here today is because we need more than just half of the reversion right of the Greenfield ROW. It will update and help the community we plan to build a 300-seat church. We want to be able to move further east. Mr. Allen agreed and signed the petition. We have cleaned out the ROW and it has cost us at least \$1,200 and all the hard work to do it. We are asking that MAPC to reconsider the recommendation of the Subdivision Committee and allow us to have more than the 45-foot of reverted ROW. This area for years has not been anything but a dump ground in the past.

BARFIELD Mr. Allen spoke to us at Subdivision Committee and he indicated that he would like to have sufficient room to get to his property. I believe he stated that he needs 20 feet. You are not opposed to that are you?

JONES No, I am not.

HENTZEN Bill, can you tell us what you are recommending in the staff report that is different from what we just heard? It is hard for us to sort that out.

LONGNECKER The Greenfield ROW was dedicated on the Orient Park Second Addition and so were the properties on the north and the south sides of the right-of-way. The reversion rights would split the road right in half, 45 foot would go to the north abutting property owners and 45 foot would go to the abutting south property owners. The applicants had all abutting property owners sign

the application and they all signed the petition also. Anything beyond the 45-foot reversion is a civil matter. They would have to have some kind of contractual agreement beyond what we can recommend, which is the reversion rights which is 45 feet and I have no record of any contracts to that affect. If she wants more than what the reversion rights for additional footage, that would have to be a civil agreement between the southern property owners and the northern property owners.

BISHOP I understand the situation and believe the applicant wants us to do something that we can't do, by law. Reversion goes to the adjoining properties. My questions is; the church desires to create a paved parking lot and even if we approve the as recommended including the reversion and the neighbors work out how the property line would relocated, how far into their property can they pave?

LONGNECKER They can pave all to the property line. We are going to retain the south 20 feet of the ROW for utility easement and there is also a drainage cut right about in the middle of the ROW in the curb that will have a portion of it retained as a drainage easement.

MILLER The church is a permitted use by right in this zoning.

BISHOP It sounds that at least one adjoining property owner to the south want 20 feet to provide access where it is an utility easement anyway.

WARREN Part of what we said at the Subdivision Committee it does appear that if they want that land they could do a quit claim deed or a joint access agreement but we did not discuss this reversion problem at the Subdivision Committee. I think this is a civil matter.

MCKAY We can approve it and let them figure out how they are going to split it up.

KENNETH ALLEN, 2752 S. RICHMOND, WICHITA, KS I own the lots 42 through 60 which is the whole north side. When I bought the front, west, lots I bought the rear, east, house lots as well. Whatever happens to Greenfield Street I will need some type of access to those east lots.

MCKAY Show us the property on the aerial. If you had access to those back lots would you be willing to deed a portion of the reverted ROW to them?

MILLER I would recommend that the Planning Commission defer this Item for the property owners to work this thing out.

WARREN We could take this case and provide of an access agreement as a condition of the vacation.

MCKAY You have to have two groups to agree before we take action on the vacation.

MOTION: To defer for 30 days.

MCKAY moved, **BISHOP** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

3-6. VAC2003-34 – Request to Vacate a Setback.

OWNER/APPLICANT: Lakeridge Development LLC

AGENT: AM Consulting Inc, c/o Kim Edgington

LEGAL DESCRIPTION: The west 35-foot of the platted 70-foot building setback line running parallel to the east property line of Lots 1 & 2, Oak Cliff Estates 4th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the northwest of the Maize Road and Maple Street intersection

REASON FOR REQUEST: New development on the site.

CURRENT ZONING: Subject property and all adjacent properties are zoned "LC" Limited Commercial.

This site has CUP DP-104 overlay on it and the applicant has applied for an adjustment to the CUP. CUP2003-24 DP-151. The adjustment to the CUP would allow the 35-foot reduction of the 70-foot setback and move the use of a car wash from one parcel to Lot 2. Because the 70-foot setback shown on CUP DP-151 was also a platted on the Oak Cliff Estates 4th Addition, both an adjustment to the CUP and a vacation of the platted setback is required. A carwash requires a minimum of a 20-foot setback from the ROW. The Oak Cliff Estates 4th Addition was recorded 12-23-1988.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the west 35-feet of platted 70-foot setback as recorded on the Oak Cliff Estates 4th Addition and CUP DP-104, with the condition that the setback be reduced as described in VAC2003-34 be first approved for reduction in the adjustment to CUP DP-104.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time June 19, 2003 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the street ROW described in the petition should be approved

- (1) The west 35 feet of the setback as described in VAC2003-34 must first be approved for reduction in the adjustment to CUP DP-104.
- (2) Dedicate the east 10 feet of the 20-foot utility easement, running parallel to the east property line of Lots 1 & 2, Block 1, Oak Cliff Estates 4th Addition, as a utility-sidewalk easement.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The west 35 feet of the setback as described in VAC2003-34 must first be approved for reduction in the adjustment to CUP DP-104.
- (2) Dedicate the east 10 feet of the platted 20-foot utility easement, running parallel to the east property line of Lots 1 & 2, Block 1, Oak Cliff Estates 4th Addition, as a utility-sidewalk easement.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.

BILL LONGNECKER, Planning Staff, noted that there was a protest to the Administrative Adjustment of the CUP and that VAC2003-34 would not go to the City Council for final action until the protest to the Adjustment was resolved, no matter what the MAPC recommendation was. Staff recommends deferral of this Item until the Administrative Adjustment is resolved.

JASON D. BOLES, 208 S. MAIZE RD, WICHITA, KS 67209 I represent Larry Fulgate who owns the property immediately to the east of the parcels that are in question and we have had made arrangements with our legal counsel to appeal the staff recommendations on the C.U.P. adjustment and would request no less than a 90 day deferral to allow those proceedings to be played out.

MOTION: Defer for 90 days.

MCKAY moved, **GAROFALO** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

WARREN I have a question on what we just did a C.U.P. is an agreement between the property owner, this board, and the City I didn't know other property owners could have protest rights to an agreement between the property owner and the City.

MILLER There is a provision in the Zoning Code that allows for C.U.P.'s to be adjusted or amended. What is happening here was an adjustment which means that it is administrative there is no notice sent to anybody other than the sign is posted and the Code has a provision that allows an affected property owner to file a protest of an adjustment and they have done this and this maybe the first one that we have had in a long time. An affected property owner has the right to protest and then we will bump it up to be an amendment where it comes back to the full Planning Commission for a full hearing.

4. **Case No.: CON2003-15** - Webb Road Development c/o Johnny Stevens (Owner); A&A Auto & Truck Salvage c/o John Mitchell (Applicant); MKEC Engineering Consultants c/o Gene Rath (Agent) request Amendment to CU-431 to permit an expansion of an existing auto salvage yard on property zoned "GI" General Industrial on property described as;

Generally located North of 21st Street North and east of Broadway

The City Council referred the above-referenced Conditional Use request back to the MAPC for reconsideration in light of the 21st Street corridor revitalization between I-135 and Broadway. The City Council minutes are attached for your review.

Schematic studies regarding improvements to the 21st Street corridor also are attached for your review. None of these studies have been adopted, and at this point, they are only concepts that may or may not ever be implemented. Because these studies were not adopted, planning staff did not present this information in the staff report on this request. The only action taken by the MAPC and City Council for the 21st Street Corridor is to provide \$2.9 million in the Capital Improvement Program for 2011 to reconstruct and widen 21st from I-135 to Broadway to a five lane roadway. The amount of money included in the CIP is insufficient to fund any of the attached concepts and only will fund a middle turn lane and road reconstruction with no rail separations.

The City Council has requested that planning staff prepare a "vision statement" for the 21st Street corridor, but work has yet to begin on preparing such a vision statement. Planning staff intends to have the vision statement completed in time for City Council reconsideration of this item, which is anticipated to occur on August 5, 2003.

Please consider this information when reconsidering this item.

BARFIELD Is the City saying to you that the project that they have asked you to undertake this project hinges on that project?

KNEBEL My understanding is that they want to make sure that the Planning Commission has given these potential projects full consideration and the impact that this case may have on these potential projects is my understanding of the request for the reconsideration.

GAROFALO Is that staff going to look at this and give us some impact if any?

KNEBEL Yes, we are going to do some additional looking at it.

GAROFALO We can't look at this and decide what the impact is going to be sitting here in five minutes.

KNEBEL You could defer action and not make a recommendation today.

BISHOP I am looking at the motion made by City Councilwoman Fearey, and it says that the item be returned to the MAPC to be considered along with the 21st Street Corridor Revitalization between I-135 and Broadway. I understand that is why you included the different schematics and so forth, but it seems to me that would include the vision statement and some kind of planning direction for that corridor and it would be better to consider this in conjunction with that.

KNEBEL That would be appropriate action for the MAPC to take.

BISHOP moves for a deferral until whatever is the appropriate date to sit with the City Councils action.

KNEBEL I think you would probably want to give some direction as to the level of detail and information that you are asking staff to provide and that would give us a better indication how much time it will take us.

BARFIELD My understanding is that Ms. Fearey had more concern with the fact that the DAB had stated that they were concerned that there might be another developer come along that might want to develop a part of this property.

MILLER Her comments are in the minutes. That is all she said, and we have provided a copy of those to you.

BARFIELD I am not in favor of deferring this myself, and we don't have anything definite that is going to take place in that area. It is all speculation.

JOHNSON What did we do when this case was heard to affect 21st Street no matter what happens there? They eliminated some driveways and a bunch of stuff.

KNEBEL All of that was a preliminary plat that has not been finalized. As far as this particular property, it does not have direct access to 21st Street. It is access through an intervening property. There are some schematics that would impact this property to some limited extent.

JOHNSON The owners finally agreed to the drives. I don't understand why this is coming back to us.

DUNLAP I think Councilwoman Fearey had a good idea. We ought to plan. We ought to know what we are going to do on 21st Street, but this particular application doesn't have any permanent buildings planned. We are talking about a salvage yard. I don't think we should defer this application while we plan 21st Street.

BISHOP I jumped in the discussions and floated a motion at an inappropriate time, I believe we need to hear from the applicant.

HENTZEN The City Council sent it back after we approved it, and they wanted us to take a look at it especially as it relates to any and all plans that are on the table for 21st Street. I will not vote for deferral of this application because somebody might think that at sometime in the future somebody might want to do something with 21st Street. If the funding is not in place for this plan of development, I don't think we ought to hold up the property owner's plans.

KNEBEL You are not required to hold a public hearing on this item.

GAROFALO Is this in the CIP at all?

KNEBEL There is a project in the CIP to widen 21st Street for the year 2011 to 5 lanes with at-grade rail crossings.

BISHOP I will withdraw my motion.

MOTION to approve Item 4 this application subject the MAPC's previous recommendation to the City Council.

BARFIELD moved, **MARNELL** seconded the motion.

MOTION CARRIES: 11-1-1. (BISHOP opposed, HERNANDEZ abstains)

5. **Case No.: CON2003-22** - Maisch Family, LP c/o Theodore W. Maisch (owner/applicant); William Kehr (attorney) request Conditional Use for the expansion of a tavern and drinking establishment with 200 feet of a residential property on property described as;

Lots 1, 2 and 3, Alton Powell's First Addition, Wichita, Kansas, Sedgwick County, Kansas. Generally located Southeast corner of Central and Tracy (4331 W. Central).

WITHDRAWN

6. **Case No.: CON2003-21** – Fred L. Cloud and Gayle A. Cloud (owner) request Sedgwick County Conditional Use for accessory apartment on property zoned "SF-20" Single-Family Residential on property described as;

Commencing at the Northwest corner of the Southwest Quarter of Section 17, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, thence South 89 degrees 56'20" East along the North line of said Quarter Section, a distance of 1540 feet to the point of beginning; thence continuing along said North line of said Quarter Section, a distance of 330 feet; thence South 0 degrees 0'0" West a distance of 663.76 feet; thence North 89 degrees 51'00" West a distance of 330 feet; thence North 0 degrees 00'00" East a distance of 663.24 feet to the point of beginning. Generally located on the north side of 44th Street South approximately 1/4 mile east of Rock Road

BACKGROUND: The applicant, Fred L. and Gayle A. Cloud is requesting a Conditional Use to allow an accessory apartment on 5.05 acres of unplatted property zoned "SF-20" Single-Family Residential. The applicant proposes to convert the western side of an existing garage into an accessory apartment. They have stated they wish to have Mrs. Cloud's elderly parents to live nearby in order to provide them assistance in daily living.

The existing home and garage are set back over 100 feet from 44th Street South, and a double row of evergreens are planted along the front property line. The garage is approximately 75 feet west of the adjoining property line, and a row of evergreens are planted along east property line as far north as the garage. The remaining five acres consists of a pond on the northeast corner, some other outbuildings along the west side of the lot. The sewage lagoon is located near the center of the lot.

The surrounding property is developed with single-family homes on 5+ acre tracts zoned "SF-20".

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use permit is required for an accessory apartment in the "SF-20" zoning district. As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

- (a) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (d) water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The request meets these requirements.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20"	Single-family residences
SOUTH: "SF-20" "RR"	Single-family residences
EAST: "SF-20"	Single-family residences
WEST: "SF-20"	Single-family residences

PUBLIC SERVICES: Access to this site is off of 44th Street South, an unimproved residential street with 70 feet of right-of-way. The site is connected to the rural water district and has a private sewage lagoon for sewage disposal.

CONFORMANCE TO PLANS/POLICIES: The 2001 Sedgwick County Development Guide Land Use Guide of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* designates this area as "rural".

The policies of the Unified Zoning Code allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a (attached) of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan.
4. Construction of improvements shall be completed within one year of approval by the appropriate governing body.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding zoning is "SF-20" Single-family, on large suburban tracts five acres or more in size. Many of the homes have extensive evergreen screening between lots or along the street. Even with the addition of an accessory apartment within an existing garage, the character of the use of this tract will be similar to those of the surrounding properties.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a "Conditional Use" in "SF-20" provided the applicant and the site meet the specified criteria. The applicant and the site appear to meet these criteria so long as the accessory apartment remains subordinate in size and remains as a single hook-up for water and sewer services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effect should be minimized by the large size of the lot. The placement of the accessory apartment within the garage generously meets zoning setback requirements.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "SF-20". This application appears to comply with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **COULTER** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

7. **Case No.: ZON2003-31** – Marilyn K. Dugan/John E. Dugan Family Partnership LP request Zone change from "SF-5" Single-Family Residential to "LI" Limited Industrial on property described as;

That part of the Southeast Quarter of Section 7, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the Northwest corner of Lot 1, Block 2, Dugan Industrial Third Addition, Sedgwick County, Kansas; thence southerly along the west line of said Block 2, 319.47 feet for a point of beginning; thence continuing southerly along the west line of said Block 2, 1019.17 feet to the Southwest corner of Lot 2, in said Block 2, said Southwest corner also being on the northerly right-of-way line of said K-42 Highway, 433.57 feet; thence northerly parallel with the east line of said Southeast Quarter, 389.57 feet; thence northeasterly with a deflection angle to the left of 31 degrees 17'00" and parallel with the east line of said Southeast Quarter, 598.39 feet; thence easterly perpendicular to the east line of said Southeast Quarter, 205.02 feet to the point of beginning, all being subject to road rights-of-way of record. Generally located Northwest of the Maize Road- K-42 intersection

BACKGROUND: The applicant is seeking "LI" Limited Industrial zoning for an eight acre unplatted tract located north of Highway K-42 and approximately 600 feet west of Maize Road. The property is currently zoned "SF-6" Single-family Residential, and is undeveloped. The applicant's agent indicates that there is not an identified user at this time. However, the applicant owns the land east of the application area that is zoned "LI" Limited Industrial, and the applicant desires to have his entire ownership uniformly zoned. Access to the site could be off of Highway K-42 or Maize Road as there is a frontage road that connects this property to both K-42 and Maize Road.

Property to the north is part of the Harvest Ridge Addition plat, and is currently zoned "LI" Limited industrial, but was the subject of a recent rezoning to "SF-5", Single-family Residential, subject to completing the plat. Land to the west is zoned "SF-5" Single-family Residential, and is also part of the pending Harvest Ridge Addition that received MAPC approval in January 2003. It is staff's understanding that the Harvest Ridge development is under the same ownership as this applications area or this applicant is a partner in the Harvest Ridge project. A narrow strip of land to the south is zoned "LI" Limited Industrial, with the rest of the land to the south zoned "SF-20". Land to the east is zoned "LI".

The Unified Zoning Code (UZY) requires screening to be located between single-family residential and two-family uses, and all other uses. In this instance, required screening can be of fencing 6-8 feet tall (constructed of brick, stone, concrete masonry, stucco, concrete or wood), evergreen vegetation, landscaped berms or some combination of the three. Loading docks, trash receptacles, ground and/or roof level heating / air conditioning, mechanical equipment, free-standing coolers or refrigeration units, outdoor storage or work areas located within 150 feet of residential zoning must be screened.

The UZY also requires compatibility building setbacks along the side and rear lot line of "SF-5" or "TF-3" zoning of a minimum of 15 feet plus one foot for each five feet of lot width over 50 feet up to a maximum of 25 feet. Compatibility height standards state no structure shall exceed 35 feet in height within 50 feet of the lot line of property zoned "TF-3" or "SF-5". Structures located 50 feet from the lot line can increase in height at a ratio of 1 foot in height for every 3 feet of setback. Noise compatibility standards prohibit sound amplification systems if the sound can be heard within any residential zoning. Buffer landscaping will be required along the north and west sides.

CASE HISTORY: The property became zoned "SF-5" Single-family Residential when the property was annexed in 2003.

ADJACENT ZONING AND LAND USE:

NORTH: "LI" Limited Industrial approved for "SF-5" Single-family Residential (Harvest Ridge Addition); agriculture, proposed for single-family residential
SOUTH: "LI" Limited Industrial, "SF-20" Single-family; abandoned railroad right-of-way, agriculture
EAST: "LI" Limited Industrial; restaurant, vacant
WEST: "SF-5" Single-family Residential; vacant, proposed for single-family residential (Harvest Ridge Addition)

PUBLIC SERVICES: Highway K-42 is an access controlled highway. Any change in access will require approval of the Kansas Department of Highways. Public sewer and water service are available for extension.

CONFORMANCE TO PLANS/POLICIES: The "Comprehensive Plan" anticipated that this area would be developed either with "low density residential" uses or "rural" uses. However, this site is located right on the boundary between the more detailed portion of the map and the rural areas. It was anticipated this site would be developed by 2030 but after 2010. Industrial location guidelines contained in the Plan indicate that Industrial areas should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses. Industrial uses should not feed directly into local streets in residential areas. Industrial uses should be generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas.

RECOMMENDATION: Staff has concerns regarding this request. Staff understands the desire by the applicant for his/her ownership to have uniform zoning, and this site meets two of the three industrial location criteria. However, given this tract's proximity to the proposed residential plat, the downzoning of the tract immediately north of the application area to "SF-5", Single-family Residential zoning, and the Comprehensive Plan's recommendation for this tract to be developed with low-density residential uses, "OW" Office Warehouse or "IP" Industrial Park zoning may be more appropriate zoning than the requested "LI". These two districts have a more appropriate list of allowed uses, and they have development standards -increased setbacks, height limitation and screening requirements - that may be more compatible for this location when compared to the "LI" district. A less intense zoning district than "LI" would act as a buffer between the existing "LI" and Harvest Ridge Addition. However, based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The area is a mix of zoning – LI, SF-20 and SF-5 – and a variety of uses – agricultural, retail, warehousing, manufacturing and residential. This is an area of the city that is seeing increased development interest as municipal services are being extended as other projects in the area begin construction.
2. The suitability of the subject property for the uses to which it has been restricted. Until 2003, the property was zoned "SF-20" Single-family Residential. When the property was recently annexed it was zoned "SF-5", Single-family Residential which limits the property to single-family residential uses. The narrow shape of the property would make this property difficult to develop as a stand alone tract. As more residential development occurs, there will be increasing demand for local serving services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: "LI" zoning will not provide a stepping down of the intensity of uses between the existing "LI" and "SF-5" zoning. Required buffering requirements can minimize expected negative impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The request is consistent with two or the three industrial location criteria.
5. Impact of the proposed development on community facilities: Once developed the site will generate increased traffic and create a demand for urban services. None of these demands exceed existing or anticipated services.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **COULTER** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

- 8a. **Case No.: CUP2003-33 DP9 Amendment #3** – Michaelis Real Estate #5, LLC c/o Mark Michaelis (owner/applicant); Baughman Company c/o Russ Ewy (agent) request Amendment to The Westlink Commercial Community Unit Plan on property described as;

A tract of land described as beginning at the SE corner of Lot 1, Westlink Center 4th Addition, Wichita, Kansas; thence west along the south line of said Lot 1, 400 feet; thence north parallel with the east line of said Lot 1, 50 feet; thence east parallel with the south line of said Lot 1, 250 feet; thence north parallel with the east line of said Lot 1, 210 feet; thence east parallel with the south line of said Lot 1, 150 feet; thence south along the east line of said Lot 1, 260 feet to beginning.

and

- 8b. **Case No.: ZON2003-33** – Michaelis Real Estate #5, LLC c/o Mark Michaelis (owner/applicant); Baughman Company c/o Russ Ewy (agent) request Zone change from "LC" Limited Commercial to "GC" General Commercial on property described as;

A tract of land described as commencing at the SE corner of Lot 1, Westlink Center 4th Addition, Wichita, Kansas; thence west along the south line of said Lot 1, 210 feet; thence north parallel with the east line of said Lot 1, 10 feet for a point of beginning; thence continuing north parallel with the east line of said Lot 1, 32 feet; thence west parallel with the south line of said Lot 1, 140.5 feet; thence south parallel with the east line of said Lot 1, 32 feet; thence east parallel with the south line of said Lot 1, 140.5 feet to beginning. Generally located Southwest corner of Central and Tyler

BACKGROUND: The applicant requests an Amendment to Parcel 1 of DP-9 Westlink Center CUP and a zone change to "GC" General Commercial for a portion of the subject property. The subject property is located at the southwest corner of Central and Tyler and is developed with a shopping center that includes Westlake Ace Hardware.

The surrounding area is characterized by commercial uses at the intersection of Central and Tyler. All surrounding properties are zoned "LC" Limited Commercial or "GC" General Commercial. Surrounding properties primarily are developed with various commercial uses, with multi-family residential located south of the subject property.

The applicant proposes a 14,650 square-foot outdoor nursery and garden center and a 4,500 square-foot outdoor storage area for Ace Hardware. The outdoor nursery and garden center is proposed to be seasonal and used for a maximum of 150 days per year. Landscaping is proposed along Tyler Road adjacent to the seasonal nursery and garden center. An 8-foot high screening fence is proposed around the outdoor storage area, with no stored materials exceeding the height of the screening fence. The applicant submitted the attached site plan illustrating the proposed uses and the attached CUP drawing describing the proposed uses.

Outdoor display of merchandise is permitted within 10 feet of a building on property zoned "LC" Limited Commercial; however, if the outdoor display area is not located within 10 feet of the building, approval of a CUP amendment is required. The Unified Zoning Code contains 11 Supplementary Use Regulations (see attached) for outdoor nurseries and garden centers located on property zoned "LC" Limited Commercial. The applicant proposes a modification to one of the Supplementary Use Regulations. Section III-D.6.z.(3) requires a 25-foot setback from public right-of-way for the outdoor display area; however, the applicant proposes no setback for the outdoor display area. A Supplementary Use Regulation can be modified by the City Council upon receiving a favorable recommendation from the MAPC. Planning staff recommends the proposed modification, because meeting the setback requirement would create a site circulation problem for large vehicles, including emergency vehicles.

Outdoor storage is only permitted in the "LC" Limited Commercial zoning district if the storage area is attached to the building, is screened, and does not exceed 20% of the floor area of the building (if approved by CUP amendment). Since the back of the Ace Hardware building contains loading docks, the outdoor storage area cannot be attached to the building. The applicant proposes a 4,500 square-foot outdoor storage area to be located south of the service drive at the rear of the Ace Hardware. The proposed outdoor storage area meets the screening and size requirements; however, since the outdoor storage area is not attached to the building, it can only be permitted with approval of the requested "GC" General Commercial zoning.

CASE HISTORY: The subject property was approved for "LC" Limited Commercial zoning in 1960 and DP-9 Westlink Center CUP in 1965. The subject property was platted as part of the Westlink Center Addition in 1966. The CUP has been amended twice, once in 1980 and a second time in 1983. Several administrative adjustments of the CUP also have been approved.

ADJACENT ZONING AND LAND USE:

NORTH: "LC"	Bank
SOUTH: "LC"	Vehicle repair, apartments
EAST: "LC"	Retail
WEST: "LC"	Retail

PUBLIC SERVICES: The subject property has access to Tyler, a five lane arterial street. Current traffic volumes on Tyler are approximately 21,500 vehicles per day. The 2030 Transportation Plan estimates that future traffic volumes on Tyler will increase to 23,000 vehicles per day and does not recommend any improvements to Central beyond its present five-lane configuration. Planning staff estimates that the proposed development would generate less than 100 trips in the peak hour; therefore, the Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. The subject property is currently served by municipal water and sewer service.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other

activity from adversely impacting surrounding residential areas. The request conforms with the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan. The Unified Zoning Code contains 11 Supplementary Use Regulations for nurseries and gardens centers located in the "LC" Limited Commercial zoning district. The request conforms with all but one of the Supplementary Use Regulations.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Condition #1 for outdoor display and storage shall be modified to limit the seasonal nursery and garden to 120 days per calendar year.
2. Condition #3 for outdoor display and storage shall be changed as follows: "The seasonal nursery and garden center shall conform to all requirements of Section III-D.6.z. of the Unified Zoning Code, except that no setback for the outdoor display area shall be required along Tyler."
3. A condition for outdoor display and storage shall be added as follows: "Non-living material shall only be displayed in the 3,900 square-foot seasonal display area located immediately east of and abutting the building."
4. The development of this property shall proceed in accordance with the approved development plan, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
5. Any major changes in the development plan shall be submitted to the Planning Commission for consideration.
6. The applicant shall submit four 24" x 36" folded copies and one 11" x 17" copy of the PUD to the Metropolitan Area Planning Department within 60 days after approval, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by commercial uses near the intersection of Central and Tyler. The properties immediately surrounding the subject property are zoned for and developed with commercial or high-density uses. The request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently developed with a shopping center. The proposed nursery and garden center may be permitted in the "LC" Limited Commercial zoning district with approval of CUP amendment. The requested zone change for "GC" General Commercial will make the subject property suitable for limited outdoor storage in manner consistent with other large retail uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms with the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan. The Unified Zoning Code contains 11 Supplementary Use Regulations for nurseries and gardens centers located in the "LC" Limited Commercial zoning district. The request conforms with all but one of the Supplementary Use Regulations.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **COULTER** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

9a. Case No.: CON2003-20 - Rosetta B. Presley (owner); Builder Development Inc., c/o Elton Parsons; Larry Qualls (contract purchaser); Gene Razook (agent); Baughman Company c/o Russ Ewy request Conditional Use for a car wash to be located within 200 feet of residential property on property described as;

and

9b. Case No.: ZON2003-29 - Rosetta B. Presley (owner); Builder Development Inc., c/o Elton Parsons; Larry Qualls (contract purchaser); Gene Razook (agent); Baughman Company c/o Russ Ewy request Zone change from "TF-3" Two-Family Residential to "LC" Limited Commercial on property described as;

Generally located at the southeast corner of 21st Street North Arkansas

DEFERRED UNTIL JULY 24, 2003

10. **Case No.: ZON2003-30** – Dan Warren & Jerry Warren (Owners/applicants) request Zone change from “SF-5” Single-Family Residential to “LC” Limited Commercial on property described as;

Lots 23 and 24, Block 1, Orchard Park, Sedgwick County, Kansas. Generally located at the southeast corner of Central and Baehr

BACKGROUND: The applicant requests a zone change from “SF-5” Single Family to “LC” Limited Commercial on a 0.29 acre platted tract located at the southeast corner of Central and Baehr. The applicant intends to develop the subject property with a commercial building per the attached site plan for lease to undetermined commercial businesses.

The surrounding area is characterized by primarily commercial uses along Central, with residential uses located on the interior properties beyond the commercial frontage. The property to the east is zoned “LC” Limited Commercial and is developed with a retail business. The property to the south is zoned “SF-5” Single Family and is developed with a single family residence. The property to the west across Baehr is zoned “GO” General Office and is developed with an office building. The properties to the north across Central are zoned “LC” Limited Commercial and “SF-5” Single Family and are developed with a retail business and a church, respectively.

The applicant's proposed site plan does not conform with several Unified Zoning Code (UZC) and Landscape Ordinance requirements. First, Section IV-B. of the UZC requires screening along the south property line; therefore, screening, likely a 6-foot high solid fence, will need to be provided along the south property line. Second, Section IV-C.4. of the UZC requires a compatibility setback of 24 feet along the south property line; however, a building setback of only five feet is proposed. Section V-I of the UZC allows the Planning Director with the concurrence of the Zoning Administrator to reduce or waive the compatibility setback. For the subject property, planning staff recommends that the compatibility setback be reduced to no less than 10 feet and that the compatibility setback reduction be conditioned upon approval of the height and design of the building and an increase in the required landscaping to ensure compatibility of the commercial building with the abutting single family residence. Third, Section IV-A.12. of the UZC requires parking lots to conform to the *Typical Standards for Off-Street Parking*, which does not permit parking spaces to back directly onto street right-of-way as is proposed for the two parking spaces in the southwest corner of the subject property. Therefore, the two parking spaces in the southwest corner of the subject property will need to be reconfigured. Fourth, Section 10.32.040 of the Landscape Ordinance requires a landscaped buffer along the south property line; therefore, a landscaped buffer consisting of four shade trees will need to be provided along the south property line, which should be increased to a requirement of six shade trees if the compatibility setback is reduced. Fifth, Section 10.32.030 of the Landscape Ordinance requires a 1,080 square-foot landscaped street yard along Central, but only a 405 square-foot landscaped street yard is proposed. Therefore, an additional 675 square feet of landscaped street yard will need to be provided north of the building wall line along Central. Sixth, Section 10.32.050 of the Landscape Ordinance requires screening of the parking lot along Central and Baehr; therefore, screening comprised of berms and/or plantings a minimum of three feet in height will need to be provided between the parking lot and the streets.

CASE HISTORY: The subject property is platted as part of the Orchard Park Addition, which was recorded May 23, 1929.

ADJACENT ZONING AND LAND USE:

NORTH: “LC” & “SF-5”	Retail & Church
SOUTH: “SF-5”	Single Family
EAST: “LC”	Retail
WEST: “GO”	Office

PUBLIC SERVICES: The subject property has frontage along Central, a five-lane arterial street, and Baehr, an unpaved local street. Current traffic volumes on Central are approximately 21,500 vehicles per day. The 2030 Transportation Plan estimates that future traffic volumes on Central will increase to 24,000 vehicles per day and does not recommend any improvements to Central beyond its present five-lane configuration. Planning staff estimates that the proposed development would generate less than 100 trips in the peak hour; therefore, the Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. The subject property currently provides 40-feet of half-street right-of-way for Central, which is 20 feet less than recommended by the Access Management Policy. Since the applicant purchased the subject property from the City and the City kept five feet along the north property line and a 15-foot corner clip for street right-of-way, planning staff does not recommend requiring the applicant to dedicate additional street right-of-way for Central. Since Baehr is unpaved, planning staff recommends that the applicant be required to dedicate complete access control along Baehr until such time as the street is paved and that the applicant be required to submit a “no protest” petition for the paving of Baehr. The Access Management Policy indicates that the first access drive to Central should be located 200 feet east of Baehr; however, the subject property has only 135 feet of frontage along Central and no method of acquiring access other than direct street access. Therefore, planning staff recommends that one access drive be permitted to Central and that the access drive be required to align with the Baehr intersection on the north side of Central. Planning staff also recommends that the applicant be required to dedicate a cross-lot access easement for the commercial property to the east. Public water and sewer are available to serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for “Commercial” development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property conforms with the Land Use Guide and Locational Guidelines.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to meeting the following conditions within 60 days of approval:

1. Dedication by separate instrument of complete access control along subject property's Baehr frontage until such time as Baehr is paved.
2. Submittal of a "no protest" petition for the paving of Baehr.
3. Dedication by separate instrument of access control along subject property's Central frontage except of one opening aligned with the Baehr intersection on the north side of Central.
4. Dedication by separate instrument of a cross-lot access easement for the commercial property to the east.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by commercial uses along Central. Most of the properties along Central in this area are zoned "LC" Limited Commercial and/or are developed with non-residential uses. Similar zoning and uses in the vicinity and have proven to be compatible with this neighborhood's residential areas. Therefore, the request is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single Family, which accommodates moderate-density single-family residential development and complementary land uses. Given the subject property's location along an arterial street primarily developed with commercial uses, the viability of the single-family development on the subject property is questionable. The property is more suited for commercial or institutional uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property conforms with the Land Use Guide and Locational Guidelines.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated if the recommended "no protest" petition and dedications are provided.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **COULTER** seconded the motion, and it carried (12-0-1) **HERNANDEZ** abstains.

11. Other matters/adjournment.

MITCHELL I would like to know who the appointees will be to the two committees.

HENTZEN I didn't have the mayors appointment until yesterday. I will give my limits to John Schlegel. The MAPC chair changes every year that is the City has it one year and the County has it the next then on the two committees that we have which is Advance Plans and Subdivision then we have to have a certain number of City people and a certain number of County people appointed and I have spoken to almost all of them. Give me a day or two and I will have staff get those out.

BARFIELD My term should be 8-31-05 I have already been reappointed and this needs to be corrected on this MAPC roster.

The Metropolitan Area Planning Department informally adjourned at 2:52 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on

_____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)